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**UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF CALIFORNIA**

Joshua Hall,  <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> Receivables Performance Management, LLC,  <p style="text-align: center;">Defendant.</p>	<b>Case No: <u>'13CV0805 BEN RBB</u></b>  <b>Complaint For Damages</b>  <b>Jury Trial Demanded</b>
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**INTRODUCTION**

- The United States Congress has found abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined that abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy. Congress wrote the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. (hereinafter “FDCPA”), to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt

1 collection practices are not competitively disadvantaged, and to promote  
2 consistent State action to protect consumers against debt collection abuses.

3 2. The California legislature has determined that the banking and credit system  
4 and grantors of credit to consumers are dependent upon the collection of just  
5 and owing debts and that unfair or deceptive collection practices undermine  
6 the public confidence that is essential to the continued functioning of the  
7 banking and credit system and sound extensions of credit to consumers. The  
8 Legislature has further determined that there is a need to ensure that debt  
9 collectors exercise this responsibility with fairness, honesty and due regard  
10 for the debtor's rights and that debt collectors must be prohibited from  
11 engaging in unfair or deceptive acts or practices.

12 3. Joshua Hall, (Plaintiff), through Plaintiff's attorneys, brings this action to  
13 challenge the actions of Receivables Performance Management, LLC,  
14 ("Defendant"), with regard to attempts by Defendant to unlawfully and  
15 abusively collect a debt allegedly owed by Plaintiff, and this conduct caused  
16 Plaintiff damages.

17 4. Plaintiff makes these allegations on information and belief, with the exception  
18 of those allegations that pertain to a plaintiff, or to a plaintiff's counsel, which  
19 Plaintiff alleges on personal knowledge.

20 5. While many violations are described below with specificity, this Complaint  
21 alleges violations of the statutes cited in their entirety.

22 6. Unless otherwise stated, all the conduct engaged in by Defendant took place  
23 in California.

24 7. Any violations by Defendant were knowing, willful, and intentional, and  
25 Defendant did not maintain procedures reasonably adapted to avoid any such  
26 violation.

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**JURISDICTION AND VENUE**

8. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331, 15 U.S.C. § 1692(k), and 28 U.S.C. § 1367 for supplemental state claims.
9. This action arises out of Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq. ("FDCPA") and the Rosenthal Fair Debt Collection Practices Act, California Civil Code §§ 1788-1788.32 ("Rosenthal Act").
10. Because Defendant does business within the State of California, personal jurisdiction is established.
11. Venue is proper pursuant to 28 U.S.C. § 1391.
12. At all times relevant, Defendant conducted business within the State of California.

**PARTIES**

13. Plaintiff is a natural person who resides in the City of San Diego, State of California.
14. Defendant is located in the City of Lynnwood, in the State of Washington.
15. Plaintiff is obligated or allegedly obligated to pay a debt, and is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).
16. Defendant is a person who uses an instrumentality of interstate commerce or the mails in a business the principal purpose of which is the collection of debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is therefore a debt collector as that phrase is defined by 15 U.S.C. § 1692a(6).
17. Plaintiff is a natural person from whom a debt collector sought to collect a consumer debt which was due and owing or alleged to be due and owing from Plaintiff, and is a "debtor" as that term is defined by California Civil Code § 1788.2(h).

18. Defendant, in the ordinary course of business, regularly, on behalf of himself, herself, or others, engages in debt collection as that term is defined by California Civil Code § 1788.2(b), is therefore a debt collector as that term is defined by California Civil Code § 1788.2(c).

19. This case involves money, property or their equivalent, due or owing or alleged to be due or owing from a natural person by reason of a consumer credit transaction. As such, this action arises out of a consumer debt and “consumer credit” as those terms are defined by Cal. Civ. Code § 1788.2(f).

#### FACTUAL ALLEGATIONS

20. Sometime before January 29, 2013, Plaintiff is alleged to have incurred certain cell phone payment-related financial obligations.

21. These financial obligations were primarily for personal, family or household purposes and are therefore a “debt” as that term is defined by 15 U.S.C. §1692a(5).

22. Sometime thereafter, but before January 29, 2013, Plaintiff allegedly fell behind in the payments allegedly owed on the alleged debt. Plaintiff currently takes no position as to the validity of this alleged debt.

23. Subsequently, but before January 29, 2013, the alleged debt was assigned, placed, or otherwise transferred, to Defendant for collection.

24. On or about January 29, 2013, Defendant emailed a dunning letter to Plaintiff. Shortly thereafter, Plaintiff received that email letter.

25. This communication to Plaintiff was a “communication” as that term is defined by 15 U.S.C. § 1692a(2), and an “initial communication” consistent with 15 U.S.C. § 1692g(a).

26. Defendant’s January 29, 2013 email to Plaintiff stated, “For your convenience we are providing you access to confidential information relating to our account. Confidential email communications from us to you should not be read by any third party including children, parents, guests in your home, etc.

1 If you are not HALL, JOSHUA, please disregard this communication and  
2 contact us at 866.212.7408 or use the Unsubscribe link below. If you are  
3 HALL, JOSHUA, please proceed and follow the secure personal link below  
4 to view your account details. JoshuaHall012844845.Rpmnotices.com.”

5 27. Defendants’s January 29, 2013 email to Plaintiff did not contain a notice as  
6 required under 15 U.S.C. § 1692e(11).

7 28. Defendant failed to disclose in this initial written communication with the  
8 consumer that Defendant was attempting to collect a debt and that any  
9 information obtained would be used for that purpose, or failed to disclose in  
10 subsequent communications that the communication from a debt collector.  
11 Consequently, Defendant violated 15 U.S.C. § 1692e(11).

12 29. Defendants’s January 29, 2013 email to Plaintiff did not contain a validation  
13 of debts, nor did Defendant send Plaintiff a written notice containing the  
14 validation of debts within five days of Defendant’s initial contact with  
15 Plaintiff on January 29, 2013, as required under 15 U.S.C. § 1692g.

16 30. Defendant failed within five days after its initial communication with  
17 Plaintiff, to provide written notification containing a statement that unless  
18 Plaintiff, within thirty days after receipt of that notice, disputed the validity of  
19 the debt, or any portion thereof, Defendant would assume the debt was valid,  
20 or failed within five days after its initial communication with Plaintiff to  
21 provide a written notice containing a statement that if Plaintiff notified  
22 Defendant in writing, within the thirty-day period that the debt, or any portion  
23 thereof, was disputed, Defendant would obtain verification of the debt or a  
24 copy of a judgment against Plaintiff and a copy of such verification or  
25 judgment would be mailed to Plaintiff by Defendant and that Defendant  
26 would provide Plaintiff with the name and address of the original creditor.  
27 This omission by Defendant violated 15 U.S.C. § 1692g.  
28

31. On or about February 22, 2013, Defendant again emailed a letter to Plaintiff. Shortly thereafter, Plaintiff received that letter.

32. Defendant's February 22, 2013, email to Plaintiff again stated, "For your convenience we are providing you access to confidential information relating to our account. Confidential email communications from us to you should not be read by any third party including children, parents, guests in your home, etc. If you are not HALL, JOSHUA, please disregard this communication and contact us at 866.212.7408 or use the Unsubscribe link below. If you are HALL, JOSHUA, please proceed and follow the secure personal link below to view your account details. JoshuaHall012844845.Rpmnotices.com."

33. Defendants's February 22, 2013 email to Plaintiff did not contain a notice as required under 15 U.S.C. § 1692e(11).

34. Defendant failed to disclose in this initial written communication with the consumer that Defendant was attempting to collect a debt and that any information obtained would be used for that purpose, or failed to disclose in subsequent communications that the communication from a debt collector. Consequently, Defendant violated 15 U.S.C. § 1692e(11).

35. Because this violated certain portions of the federal Fair Debt Collection Practices Act as these portions are incorporated by reference in the Rosenthal Fair Debt Collection Practices Act, through California Civil Code § 1788.17, this conduct or omission violated Cal. Civ. Code § 1788.17.

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**CAUSES OF ACTION****COUNT I****FAIR DEBT COLLECTION PRACTICES ACT (FDCPA)****15 U.S.C. §§ 1692 ET SEQ.**

36. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs.

37. The foregoing acts and omissions constitute numerous and multiple violations of the FDCPA, including but not limited to each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.

38. As a result of each and every violation of the FDCPA, Plaintiff is entitled to any actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from Defendant.

**COUNT II****ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT (ROSENTHAL ACT)****CAL. CIV. CODE §§ 1788-1788.32**

39. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs.

40. The foregoing acts and omissions constitute numerous and multiple violations of the Rosenthal Act, including but not limited to each and every one of the above-cited provisions of the Rosenthal Act, Cal. Civ. Code §§ 1788-1788.32

41. As a result of each and every violation of the Rosenthal Act, Plaintiff is entitled to any actual damages pursuant to Cal. Civ. Code § 1788.30(a); statutory damages for a knowing or willful violation in the amount up to \$1,000.00 pursuant to Cal. Civ. Code § 1788.30(b); and reasonable attorney's fees and costs pursuant to Cal. Civ. Code § 1788.30(c) from Defendant.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays that judgment be entered against Defendant, and Plaintiff be awarded damages from Defendant, as follows:

- An award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- An award of costs of litigation and reasonable attorney's fees, pursuant to 15 U.S.C. § 1692k(a)(3);
- An award of statutory damages of \$1,000.00 pursuant to Cal. Civ. Code § 1788.30(b);
- An award of costs of litigation and reasonable attorney's fees, pursuant to Cal. Civ. Code § 1788.30(c).

42. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted,

**Hyde & Swigart**

Date: Cr tkl'6, 2013

By: s/ Crosby S. Connolly  
Crosby S. Connolly  
Attorneys for Plaintiff